

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case no. 1:17-cr-211

v.

Hon. Paul L. Maloney
United States District Judge

JOSEPH ANTHONY RAPHAEL,

Defendant.

DEFENDANT’S SENTENCING MEMORANDUM

On April 19, 2018, Joseph Anthony Raphael will stand before this Honorable Court to be sentenced for having committed the crime of theft by an employee of Tribal Casino. A Presentence Investigation Report (PSR) has been completed and published to the parties (ECF No. 29, PSR) and a Supplemental Addendum to the Presentence Report (ECF No. 33, Supplemental Addendum to the Presentence Report). Mr. Raphael does not have any objections to the PSR. He does not admit the allegations in the Supplemental Addendum to the Presentence Report, however, he will not contest them solely for purposes of this sentencing hearing. Neither party has moved the Court to depart from the advisory guidelines.

Overall, as the Court is aware, the principle and basic mandate of 18 U.S.C. § 3553(a) requires this Honorable Court to impose a sentencing “sufficient, but not greater than necessary” to comply with the four (4) purposes set forth in § 3553(a)(2):

§ 3553. Imposition of a sentence.

- (a) **Factors to be considered in imposition of a sentence.** – The court shall impose a sentence sufficient, but not greater than necessary, to comply with the purposes set forth in paragraph (2) of this subsection. The court, in determining the particular sentence to be imposed, shall consider –
- (1) the nature and circumstances of the offense and the history and characteristics of the defendant;
 - (2) the need for the sentence imposed –
 - (A) to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense;
 - (B) to afford adequate deterrence to criminal conduct;
 - (C) to protect the public from further crimes of the defendant; and
 - (D) to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner. . .

18 U.S.C. § 3553(a)(2).

In *United States v. Ferguson*, 456 F.3d 660, 665 (6th Cir. 2006), the Court held that after *United States v. Booker*, 543 U.S. 220 (2005), a judge must impose the lowest sentence that is “minimally sufficient” to meet those goals regardless if that sentence is probation, time served, a mandatory minimum sentence, the statutory maximum, or somewhere in between.

Joseph Anthony Raphael has pled guilty to the offense of theft by an employee of Tribal Casino. Mr. Raphael admitted to the offense when first confronted by authorities. He told authorities that he began selling e-credits as a result of his alcoholism and heroin addiction. He has participated in the presentence process. He pled guilty in a timely manner and admitted responsibility for this offense. He is remorseful for committing this

offense. Mr. Raphael regrets violating the terms of his bond. He has written a letter to the Court detailing his remorse and his plan to use his incarceration as “time for inward reflection, positive change, and to once again become a productive member of society.” (Attachment, Letter of Joseph Raphael.)

Mr. Raphael is a 33-year-old man. He is the father of two children. He has a history of substance abuse and is requesting all available drug treatment. Mr. Raphael is requesting all educational and vocational opportunities available while he is incarcerated.

Mr. Raphael regrets the example this offense has set for his children. He wants to be a good role model for his children in the future. Mr. Raphael wants to be present in his children’s lives. He identifies the job that he had at the casino as the proudest accomplishment of his life. When he first had the job, he was sober, working, providing for his family, and living a good life. Mr. Raphael understands that he had a great opportunity to show the Court, himself, and his family that he was changing his life when he was released on bond to the drug treatment center. He apologizes for violating the Court’s trust by violating his bond. He is disappointed in himself. Mr. Raphael plans to work hard to regain the trust of his family.

Mr. Raphael has identified short-term and long-term goals for himself. In the short-term, he believes that he needs to focus on himself and changing his thought process and behavior patterns. In the long-term, he wants to own a business and live without drugs or alcohol.

Mr. Raphael was not considering the consequences when engaging in this offense. He was focused on his drug use. Mr. Raphael states that it was not worth the severe

consequences. Mr. Raphael believes that he will die, if he does not stop using drugs and alcohol. He is motivated to change his life. He intends to be law abiding in the future.

Mr. Raphael's advisory sentencing guideline range has increased significantly as a result of his bond violation and alleged criminal offense while on bond. He has received two additional offense levels for obstruction of justice and has not received a reduction for acceptance of responsibility. His offense level has increased four levels. If he had not violated bond, his advisory guideline range would have been 10 to 16 months, based upon an offense level of 10 and criminal history category of III. He is also facing additional charges in the Eastern District of Michigan.

Mr. Raphael is hopeful about his future. He is committed to being sober and living a law abiding life.

Conclusion

Joseph Anthony Raphael, prays that this Honorable Court sentence him sufficiently, but not greater than necessary, to achieve the goals of sentencing. He thanks the Court for its time in considering his circumstances and this case.

Respectfully submitted,

SHARON A. TUREK
Federal Public Defender

Dated: April 16, 2018

/s/ Sean R. Tilton
SEAN R. TILTON
Assistant Federal Public Defender
50 Louis, NW, Suite 300
Grand Rapids, MI 49503
(616) 742-7420